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# REASONS

WHY THE

PARLIAMENT of SCOTLAND

Cannot comply with the Late

King JAMES.

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ADVERTISEMENT.

**A**N *Answer* to the Late King JAMES's  
Declaration to all His Pretended Sub-  
jects in the Kingdom of *England*, Dated at  
*Dublin Castle*, May 8. 1689. Ordered by  
a Vote of the Right Honourable the House  
of Commons, to be burnt by the Common-  
Hangman.

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REASONS  
WHY THE  
Parliament of Scotland

Cannot comply with the Late  
K. JAMES's PROCLAMATION,  
Sent lately to that  
KINGDOM,

And Profecuted by the Late  
**Viscount Dundee.**

CONTAINING  
An Answer to every Paragraph of the said  
Proclamation; and vindicating the said  
Parliament their present Proceedings a-  
gainst him.

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Published by Authority.

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L O N D O N :

Printed for *Dorman Newman*, at the *King's-Arms*  
in the *Poultry*. MDCLXXXIX.

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REASONS

WHY THE

Parliament of Scotland

Consent to the Bill

N. JAMES PROCLAMATION

Set forth to that

KINGDOM

And well known by the name

William the Fourth

CONTAINING

An Answer to every Paragraph of the said  
Proclamation, and showing the said  
Parliament their proper Proceedings  
therein.

Printed by Andrew

WILSON

Printed by Andrew



The Epistle Dedicatory.

~~to the most noble and powerful Prince, the Duke of Hamilton, &c.~~

~~in a Dedication that is hoped, may be of use~~

~~to the Duke of Hamilton, &c.~~

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TO  
His GRACE  
THE

Duke of Hamilton, &c.

Their Majesties High Commissioner for the Kingdom of Scotland.

May it please Your Grace,

THE following Paper ambitionates no meaner Patron, than a Personage who has had the Honour, for a great many Years, to struggle against the Encroachments made on a Kingdom, whereof he himself is the First Peer; and who has crown'd all his other Actions with that of giving

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## The Epistle Dedicatory.

*a mighty and powerful Influence, on a Revolution that, its hoped, may at last make us Happy. Accept of this as a part of that vast acknowledgment Your Country owe's You; and Pardon the Address of*

May it please Your Grace,

Your Grace's

Most Humble, and

London, Aug. 12.  
1689.

Most Obedient Servant,

J. W.

REASONS  
WHY THE  
PARLIAMENT  
OF  
SCOTLAND

Cannot comply with the Late

King JAMES, &c.

**I**F one were to draw the Scheme of one of the most Despotick Governments in the World; he needed not go so far as *Constantinople*, *Moscow*, or some of the Eastern Courts, for a Copy to Design after; *Scotland* alone might sufficiently furnish him with all the *Idea's* of Oppression, Injustice and Tyranny, concentrated for the space of Twenty Years and upwards in that Kingdom. To display the Tragick Scene of these three Kingdoms in their most lively Colours, would require the imitation

of that celebrated piece of Antiquity, *the Sacrifice of Iphigenia*, where every on-looking *Græcian* appeared sad, and the sadder as they stood in nearer relation to the Royal Victim: But the Painter, conscious of the weakness of Art, to express the grief of *Agamemnon*, chose rather to draw a veil over a disconsolate Father's Face, than vainly to endeavour the tracing the sorrows of his Countenance by the Pencil. *England's* dismal State, for some years past, requires to be express'd in mournful Characters, that of *Ireland* perhaps in more mournful yet; but to delineate the unexampled misery of *Scotland*, surpasses the Power of History, for the Force of Eloquence. To look back upon *Athens* under the Government of the Thirty Tyrants, or *Rome* under the Triumvirate, or on these three Kingdoms under the Usurpation of *Cromwel*, might furnish some weak draughts, to take up a Notion of the late condition of that Nation; but all of them would fall short of the *Scotch* Original. It were in vain to attempt the History of *Scotland*, under the two last Reigns, in a Paper of this kind; the Materials being large enough for the most bulky Volume: And if ever I should venture upon it apart, it is more than probable, I might find that *Maxim* verified at my cost, *Cui a levior inguine, ingentes stupent*; and the sadder, that I am not altogether able to divest my self so far of Humanity, as to forget my own share in the Ruines of my Country.

My design, at present, is only to make some Reflections on a Proclamation issued out by the late King James, with relation to his pretended Subjects

of

of Scotland, dated at *Dublin* the Fourth of *May* last, Signed by Himself, and countersigned by my Lord *Melfort*; in which it's hard to determine, whether all Nature, or want of Politicks, takes most place, both of them outvying one another for Precedency. Only upon first view it will be found, that the late Conspiracy in that Kingdom, is the Native Consequence of this Proclamation; and though that Plot had amounted to a design of Assassinating their Majesties High Commissioner, and the whole Members of Parliament; yet the Actors of such a Villainy are not only by this Proclamation indemnified, but fairly invited and required so to do.

The Proclamation begins thus: **JAMES, &c.** To all our Loving Subjects of our ancient Kingdom of Scotland, Greeting. Whereas several of our Subjects, men of pernicious Principles and wicked Designs, have taken upon themselves, contrait to the Law of God, their Natural Allegiance to Us their Lawful and Undoubted Sovereign, the Laws and Acts of Parliament of that Our ancient Kingdom, to meet in an Assembly, to call themselves the States of that Kingdom, and therein treasonably and wickedly to question Our Authority, and to judge of Our Proceedings; and finally to dispose of Our Imperial Crown, which we hold from God alone, Usurping Our Power which is not communicable to any, whether single Persons, or Bodies Collective, without Our Authority be interposed thereto: And that these wicked and Lawless persons

Persons still go on to oppress our People by heavy Burdens, Imprisonments, and other things grievous to our Subjects, contrait to all Law and Equity, as well as to our Royal Right and Prerogative, uniting themselves with the Prince of Orange and his Adherents. All these blustering Expressions might have a tolerable good Grace in the Mouth of the Grand Seigneur, or Great Mogul, who vainly arrogate to themselves the High-bow Titles of *King of Kings*; but if they can be at any rate excusable in King James, it must be upon the Supposition of these two Principles. First, *That King James, as King of Scotland, was so far an Arbitrary and Despotick Prince, that he was not obliged to govern by Law, and could in no case forfeit his Right to the Crown.* And Secondly, *That he was unjustly, by the States of the Kingdom, laid aside.* Now if it can be made appear, *That in the first place, the Royal Dignity of Scotland is so far from being an Arbitrary and Despotick Kind of Government, that it carries along with it, in its very Essence, a mixture of Interests betwixt King and People, and an obligation upon the King to govern, not by his own Edicts, or Will, but by the known Laws of the Land; which are indeed the two great Hinges of the Government:* And in the second place, *That King James did forfeit his Right to the Crown, by subverting these two fundamental Hinges of the Government, and thereupon that the States of the Kingdom did justly lay him aside.* I say, if these two General Heads be made appear, then necessarily the other two supposed Principles fall in Consequence; and the above mentioned Narrative of the



*cannot comply with King JAMES, &c.* 5

the Proclamation as built upon them, must tumble with them.

As to the First General Head, *That the Royal Dignity of Scotland is so far from being an Arbitrary and Despotick kind of Government, that it carries along with it, in its very Essence, a mixture of Interests betwixt King and People, and an obligation upon the King to govern according to Law.* Here I shall not run up the length that our Histories have with any probability traced the Affairs of our Nation, where we may, upon the one Hand, find our selves one of the most Ancient Kingdoms of the World, under one Line of Kings; So on the other, we shall meet all along the clearest prints of a bounded and mixed Government: Nor shall we be able, in all the changes of our Monarchy, to instance one of our Kings, that pretended to such an Absolute Power over his Subjects, *as every one of them was to obey without reserve*; the new coining of these Words, and the making use of the thing signified by them, being reserved for the Reign of the late King James: Nor will I presume to pass Censure upon some Acts of Parliament made of late, that have stretch'd the Prerogative of the King, and the Obedience of the Subject beyond their ordinary limits; Acts of Parliament being, in my Opinion, only subject to the Censure of those that can unmake them. I shall only (to put this General Head beyond question) take a short hint of the Nature of the Government of *Scotland*, as it is agreed to by all Parties; and then fix upon that particular Constitution, by which the King is obliged to govern according to the Laws of the Kingdom.

That

That the Government of *Scorland*, notwithstanding all the Acts of Parliament made in the last two Reigns, in favour of the Prerogative, was and is a mixed sort of Government, is clear from this part of its constitution, That the three Estates of Parliament, and every one of them, are equally as necessary and essential to the making of Laws, as the King is. It is the King, and the three Estates of Parliament all together, that make Laws, and not the King alone, nor the three Estates, nor the King with any one or two of the three Estates: Here there is one Negative Vote lodged in the King, and another lodged in the Parliament; for albeit the King, or his Commissioner, should bring in a Bill in Parliament, stamp'd with the Royal Assent, the Estates of Parliament, by their Negative Vote, may deny their Concurrence, and thereupon it proves an Abortive; so on the other hand, what-ever Sanctions are enacted by the Estates of Parliament, they amount no higher than so many dead Letters, till once the King withdraw his Negative, and imprint upon them his enlivening Assent.

This being the Native uncontroverted Constitution of our Government, I would fain know what becomes of our new coin'd *Absolute Power*, which all were to obey without reserve; since a Power in the People, to deny their Concurrence with the King, in making of Laws, is an uncontroverted essential part of the Original Constitution.

And to place this in as clear a light as possible, let us suppose the King should cause be presented to the Parliament, somewhat in form of an Act, and should back it with a Command to the Estates, to give

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give their Concurrence; in this case, by the *Absolute Power we are to obey without reserve*, the Parliament is directly obliged to concur; and thereby that *essential part* of the Government, which gives them a Negative Vote in making of Laws, is totally unhinged: Yea farther, though the King should, without consulting his Parliament, lay his Commands upon his Subjects, in matters that natively require a Parliamentary Sanction, such as Taxes, and the like; this late assumed *Absolute Power* does as much in force obedience thereto, as if there were an Act of Parliament concurring; because, if it should be pretended that such a Sanction is illegal, as not done in Parliament; that very pretence it self is a *reserve* upon their Obedience, and *all reserves* whatever, King James was pleased to exclude. In fine, if a Man be obliged to obey without reserve, then all Laws and Acts of Parliament, cease *ipso facto* to become obligatory, when once the King takes it upon him, by Vertue of this Absolute Power, to command the contrary.

As the Government of Scotland is in it self a *mixed Government*, so likewise our Ancestors have been so careful to preserve it in an equal poize, that they have thought fit *ex superabundante*, to bind up the King from invading the fundamental Constitution, or venturing on an unlimited Power, by the most Sacred Tye among Men, a *Solemn Oath and Promise*, at his Coronation, *to govern according to the Laws of the Land*, that is, these made by the

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## 8 Reasons Why the Parliament

King and Parliament: And this Obligation upon the the King to govern according to Law, I take to be the second fundamental Hinge of our Government.

That there was a Contract betwixt the King and People, equivalent to a Coronation Oath, at the very first founding of our Monarchy, we have considerable Vestiges in our History: And in Corbreds time, he is said to have Sworn, *Se majorum consiliis aquieturum*; i. e. That he should be determined by the advice of the Elders; which at that time must needs be something of the Nature of Parliaments; And Gregory, named the Great in our Antiquaries, was Sworn to maintain the Liberties of the Christian Religion: And Mackbeth another of our Kings, is said to be Sworn to maintain the Commons of the Realm. Yea, the Kings of Scotland were so far from pretending to an unlimited Power over their Subjects, That we find in Finnanus's Reign, the Tenth of our Kings, a formal Stipulation betwixt him and the People in these Words, *That the Kings in time coming, should do nothing of any great Concernment without the Authority of their publick Counsel; that he should manage no publick business which belonged to the Kingdom, without the advice and conduct of the Elders, nor should make Peace or War, nor enter into Leagues, or break them by himself, without concurrence of these Elders, and the Heads of the Tribes.* This continued a fundamental Law of the Kingdom for a great many Ages; and the breach of it prov'd fatal

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fatal to a great many succeeding Kings. This I mention, not because that I approve so narrow boundaries of the Royal Prerogative, as to be divested, of the Power of entering into Leagues; and of making Peace and War; but to evince, that there was an express Contract betwixt the King and People, and that the King did not pretend to hold his Imperial Crown of God alone, as the Penner of King James his Declaration expresses it.

The Coronation Oath of Scotland, during the time of Popery, was express, *as to governing the People according to the Laws of the Land*; but because it also contained an obligation to maintain the Hierarchy and Errors of Rome, it was altered at the Reformation, and made to relate to the Reformed Religion, as then established by Law, and was enacted to be taken by all the succeeding Kings of Scotland, at their Coronation: By it they are to Promise and Swear, *as in the presence of the Eternal God, That they shall, during the whole course of their Life, serve the same Eternal God, according as he is revealed in his most Holy Word; and shall, according to that same Word, maintain the true Religion, the Preaching of the Holy Word, the due Administration of the Sacraments, Now received and preached within the Realm of Scotland; that is, upon the matter, the same as to Swear to be of the Reformed Religion, since that Religion was estab-*

blished, as the Religion of the Nation, previous to this Act. Thereafter the King is to Swear by the same Oath; *That he shall rule the People committed to his charge, according to the Command of God, and according to the Laws and Constitutions received in this Realm.* Here I must confess my own weakness, in the point of the late King James's Accession to the Crown; for my reason could never persuade me of any Right he could justly claim to it, as long as this Act of Parliament, enacting this Coronation Oath to be taken by all succeeding Kings, was in force; since he neither did, nor could Swear it.

Thus the two fundamental Hinges of the Government of Scotland, being First, *That the Laws the People are to be governed by, are such as are made by the King and Parliament:* And Secondly, *That the Government be administrated by the King according to these Laws from the Obligation of a Coronation Oath:* If either the King alone, or the three Estates by themselves, take upon them to make Laws, then the *one Hinge* is broken off; and if the Government be not administrated by the King according to these Laws, then the *other Hinge* is broken off also; and in either or both of these Cases, the Constitution is at an end and our Legal Government ceases.

Before



Before I come to the other General Head proposed, There is one Objection that lies naturally in my way, which I judge necessary to be removed. When I speak of Laws being only made by the King and the Three Estates of Parliament, it will be told me by a certain sort of Men, That this late Act of Parliament of their present Majesties Reign, *Abolishing Episcopacy*, seems to infringe that fundamental Constitution; because one of the Three Estates is thereby removed, viz. that of the Bishops. This is easily answered, when I have told them, That before the Reformation, the Three Estates of Parliament were thus reckon'd up, the Archbishops, Bishops, Abbats, Priors, and Commendator of the Order of *St. John of Ferusalem*, made up the First Estate, and were named the *Lords Spiritual*; the Temporal Lords made up the Second; and the Representatives for Counties and Butroughs together, made up the Third: But at the Reformation, in respect of our being reformed by Presbyters, and of the great opposition of the Bishops to the Reformation it self, the Parliament was pleas'd not only to abolish the Errors of the See of *Rome*, but also the Hierarchy of Bishops, with all their Privileges and Honours, whereof that, of being the First of the Three Estates, was one. The Church of *Scotland* having continued under the Government of Presbyters, for a great many years, King *James* the First of *England*, found a way to restore Episcopacy, in spite of the struggling Genius of the Nation: And albeit at that time

time the Bishops by a *tacit consent* took their places in Parliament; yet whether by *regal* or *seigniorial* I know not, they were never restored to that Privilege of being accounted one of the Three Estates of Parliament; but were ever since reputed to make up but a part of one Estate, in conjunction with the Temporal Lords; the Second being the Representatives of Counties; and the Third these of the Burroughs. This account I judge the fitter to give, that a great many, who have not the occasion of being acquainted with the Constitution of our Country, are inclinable to think, that our reckoning up of the Three Estates is parallel with that of *England*; when indeed there can be nothing more different. *England* owed its Reformation to Bishops, whereof some of them had the Glory of Sealing it with their Blood; and that Order has ever since afforded the greatest Luminaries of the Church. When Popery was abolished in *England*, the Hierarchy of Bishops was so far from being laid aside, that it continued in the same State, as to all its Privileges, and particularly that of *being the first distinct State of Parliament*, as they found it at the Reformation. What I have advanced in point of the present reckoning up of the Three Estates of *Scotland*, will appear farther beyond all doubt, if we consider, That in most of the Parliaments of *King James the First* his Reign, there was none of the order of Bishops, whose Hierarchy being not yet restored, and yet the Validity of these Parliaments were never called

called in question, in any of the succeeding Reigns.

I come now to the Second General Head proposed, viz. Whether or not the late King did forfeit his Right to the Crown, by subverting the above-mentioned two fundamental Hinges of the Government, and if thereupon the Estates did justly lay him aside. In inquiring into this, I shall not give the Reader the trouble of enumerating the several Cases, in which the greatest Champions of Regal Prerogative allow Kings may forfeit their Right: though such a digression might be pardonable, being that King James's Proclamation insinuates fairly, that in no case it can happen. I confess, I am so great a Friend to Monarchy, as being the best of Governments, and most suitable to the Genius of our Nation, that I could not wish it Precarious, nor the Royal Prerogative sunk below what our Parliaments, preceding the two last Reigns, have determined it: And I think the late King James had reason to say of the Laws of Scotland, the same he was pleased to say of these of England, That they were sufficient to make the King as great a Monarch as he could wish. There are a great many Arguments that inforce the unreasonableness of that Opinion, That Kings may be called to an account for every mis-management; and indeed, it would seem much safer for the People, many times, to lie under the incroachments of their Princes,

Princes, then to endeavour a redress by a Remedy, that proves often worse than the Disease: And therefore it is not mis-managements in general, though many and great, that unmakes a King, but only such as shake and subvert the Essence of the Government, and unhinge the fundamental Constitution of the Kingdom. And if mis-managements of this kind can be justly charged upon the late King, it follows necessarily, that immediately upon his so doing, our Constitution is at an end, and our Legal Government dissolved, and thereupon He ceased to be our King, and We to be his Subjects. And how far the late King is thus chargeable, will appear in the following Considerations.

That the First Fundamental Hinge of our Constitution, viz. *That the Laws the People are to be governed by, be made by the King and Parliament*, was subverted by the late King, is evident, in his assuming a Power to annul and disable Laws, by his two Proclamations for a toleration, Anno 1686. For a Power to ease, annul, and disable Laws, is as much a part of the Legislature, as a Power to make Laws; since properly, none can unmake Laws, but those that made them; Yea, it would seem, that Power to annul Laws, should be greater than that which made them, considering that all Nations by their Practice have agreed to this, as a Principle in Politicks,  
That

That to abrogate an ancient Custom or Law, is one of the greatest stretches of the *Legislature*, and should be the Result of the most deliberate and sedate Consultations. So that the Late King, by assuming a power to annul Laws, made by King and Parliament, did at the same time arrogate to himself a power, at least as great, if not greater, than that of both King and Parliament together. Moreover, That the annulling of Laws is equivalent to the making of Laws, is plain, in the Case before us; for there are a great many Laws incapacitating *Roman-Catholicks* to enjoy publick Offices and Benefices: Now when King *James* assum'd a power to annul these Laws, and from an absolute Power, *which every one was to obey without reserve*, was pleas'd to capacitate these Persons, whom the Laws made by King and Parliament had incapacitated, This was equivalent, in the opinion of both the Giver and Receiver, and had the same effects, as if there had been an Act of Parliament expressly made in their favours.

But not only did the Late King in his Declarations for Liberty of Conscience, by annulling of Laws, take upon him a power equivalent to that of making of Laws, but did in a *direct and express manner* invade the *Legislature* lodged in King and Parliament, by his *imposing on his Subjects an Oath contrary to Law*, and, which even the King and Parliament together could not impose, because it was in it self a subversion of the Constitution, as being an obligation to support a Power directly destructive to *both the fundamental bindges* of the Government. By this Oath the Subjects were oblig'd to the utmost of their power, to defend, assist, and maintain the King and his Successors in the exercise of their Absolute Power; and thus, as the

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Oath

Oath was created by this Absolute Power, so the Absolute Power must be supported by this Oath; and thereby all the remnants of natural Liberty, or a Legal Government, were extinguish'd, being the Subjects were oblig'd by oath to maintain the exercise of that which plainly destroy'd them.

Some have been at a loss to find out the Reason of the difference of Styles in the Late King's *Declaration for liberty of Conscience in England*, and that of *Ours*; the Imperial Language of **annulling and disabling of Laws** being left out in the *English* one, and in their stead, the softer words of **dispensing with Laws**, made use of. I confess I know no other reason of this different Conduct, but that we were brought to that state of Slavery, that it was not worth the while to dissemble his Designs against us; and the *English* requir'd to be somewhat better smooth'd over, because they had not been so fully accustomed to an Arbitrary Government.

Thus I have made out, that King *James*, both by *consequence*, and *directly*, did invade the *Legislature*, which is the main hinge of the *Constitution*, and thereby subverted the Government: And if the Government was subverted, it must necessarily follow, that the Kingly Power was subverted with it; and all our Tyes of Allegiance, whether founded upon oath, or otherwise, are extinguish'd, when the Constitution we were oblig'd to maintain, is dissolved; and the King of himself had divested himself of that Authority, which we were to defend and obey. And if it be necessary to determine the time when this Dissolution happen'd; I answer, That albeit for these many years our Slavery was design'd, and a great many steps made to it, which, perhaps, taken all together, might



might amount to a *Consequential Subversion* of the Government; yet without all doubt, in that Declaration for *Liberty of Conscience*, dated the 12th of *February* 1686. which asserted an Absolute Power, **which every one was to obey without reserve**; and there-upon a power to *disable Laws*, the Late King finisht his Design, and our Ruine: And from that *Critical Moment* I must fix the *Epocha* of the Subversion of the *Scotch* Government.

But because there are some People so ridiculously fond of Slavery, that they cannot endure to hear that any of the Kings of *Scotland* can forfeit his Right, which I beg leave to say, is nonsense to deny, in the case of a total subversion of the Government, as this in question is. I would fain know why such a thing as *forfeiture* should be lookt upon as so monstrous in *Scotland*? We find that the Late King did not only assume a Prerogative to annul and disable Laws, and such a power as we were not only to **obey without reserve**, but to **swear to maintain**. We find that by virtue of this Prerogative and Power thus assumed, He did actually *annul and disable* a great many Laws for security of our Religion. Now suppose he had been pleas'd to impose Taxes upon his People without a Parliament, and had levied them by his own Army or Dragoons borrowed from the *Invincible Monarch*, and had to boot annulled all our Laws made for the security of our Rights and Properties: And in fine, Suppose he had been pleas'd to lay aside the whole body of our Laws, by one of these Royal Edicts, **which all were to obey without reserve**. I would willingly know of these Gentlemen, By what name to call such Practices; and whether in this case, we are patiently to suffer a King to subvert the whole frame of

our Government, and to render Bondslaves those that were born free Subjects to the protection and privilege of Laws. And such suppositions are both possible, and, perhaps might have been actually existent, if *some* had continued at the Helm a year or two longer.

I might here resume some things with relation to this Absolute Power assum'd by the Late King; and the word **Invincible necessity**, mention'd in his first Declaration for Liberty of Conscience, which I had occasion to hint at in my Answer to the late Declaration to his Pretended Subjects of *England*, &c. but I am not so fond of my own Notions, as to repeat them twice; and the rather, that the entertainment the World was pleas'd to give that Paper, infinitely beyond what it deserved, makes me think, that This can come to the hands of few, who have not seen the other. Only I must say this, I take no pleasure to aggravate the faults of any, or make the Consequences of them look more ghastly than they are in themselves; much less would I be guilty of such a thing toward Crown'd Heads. However, I am not able to alter the just appearance of this, That the publick Safety can never be secured in any Constitution whatsoever, and that the Ends of the Government are quite lost, if the Person who subverts it, doth not at the same time destroy and forfeit his own share in it.

I come to the second member of the second general Head, *viz. To inquire whether or not the Late King James did subvert that other main hinge of the Government of Scotland, which I have explain'd to be an obligation to govern by the Laws made by the King and Parliament; and thereupon, if the Estates of the Kingdom*

dom did justly lay him aside. This Inquiry is indeed no difficult, though an ungrateful and melancholly task. For what man that loves his Country, can look back upon its ruines, without emotions of tenderness! To enumerate all the dismal instances of the subversion of *this hinge* of our Government, for the space of many years, requires such a Pen as sung the Fall of Troy, or the Destruction of Thebes. And as the Subject merits to be set beyond the power of Oblivion, I cannot but hope that this fertile Age will produce some one, that shall dare to imitate Sueton's Character, by writing the Lives of *some of the Great* *tanquam ipsi vixerint*; and hand down to Posterity the fatal Methods us'd for enslaving a free-born People. And rather than the memory of these Transactions should perish for want of a better Historian to perpetuate them, I may perhaps be induc'd to venture my own Reputation in doing it, short of what the Tragick Theme may bear, than that it should not be done at all.

But to confine this Head to as few words as possible; It's equally evident, that the Late King James did subvert this Fundamental of the Government, as well as the former; For so far was he from governing according to the Laws made by King and Parliament, that his whole Government, especially since the time of his assuming a *dispensing* and *annulling Power*, was a continued downright opposition to Laws. Here I need do no more, but refer the Reader to the Printed *Instrument of Government* for setting the Crown of Scotland upon their present Majesties; in which we have contain'd a Summary of the Late King's more palpable and gross breaches of this Fundamental of the Constitution, and which I shall only explain a little,

little,

## Reasons why the Parliament

little for the benefit of those that are Strangers to our Country.

King James did not only lay aside a great many Laws and Acts of Parliament made against *Saying of Mass*, and against *Jesuits* and *Seminary Priests*, but would needs, in the greatest and most publick Cities of the Kingdom, erect publick Schools and Societies for *Jesuits* and *Seminary Priests*, and did apply no inconsiderable part of the Publick Revenue to that use. And farther, He was pleas'd frankly to invade the Property of the Subjects, by inverting summarily, without any previous Sentence, several Protestant Churches and Chappels into publick Mass-houses, and particularly the great Church of *Holly-woodhouse* within the Capital City of the Kingdom, the ancient Burying-place of our Kings, that had been a Paroch Church ever since the Reformation.

In spite of Law, He not only caus'd to be erected Popish Printing-houses for printing Popish Books, but refus'd to allow the Printing of Protestant ones, merely because they were against the King's Religion.

He not only did Invaide the Laws of the Land, but the most Tender part of the Law of Nature, in taking Protestant Noblemen and Gentlemens Children from their Parents and Friends, to be Educated in Foreign Popish Universities. As particularly the Earl of *Wigton*, and his only Brother, two of the most hopeful Gentlemen, and one of the Noblest and Ancientest Families of *Scotland*, were Ravish'd from the Arms of their Mother the Countess of *Crawford*, where neither the Prayers nor Tears of the young Noblemen them-

themselves, nor the Generous Offer of the Earl of Crawford, to Educate them upon his own Charges, were able to prevent so bad a Fate. *London*, one of the most Antient Families of the Gentry of the Kingdom, and who had the honour to be among the first Reformers from Popery, tho' of an Age that made him Master of himself, was searched for, in order to be sent the same Errand; and that in a manner only becoming the Action.

In open Defiance of a great many Laws to the contrary, the Late King James was pleased to fill up some of the most Important Places of the Government with Roman Catholics; such as Chancellor, Secretaries of State, Commissioners of the Treasury, Lords of Privy-Council, Session, and Exchequer. He was pleased to commit the Great Magazine of the Kingdom, the Government of the Castle of Edinburgh, and the Custody of the Regalia, to one of that Religion; and to fill up a great many Important Places of the Army, with the same Men that the Laws had render'd Incapable.

Our Laws have wisely adapted the measure of Punishment to the Nature of the Crime; some inserting the loss of Chattels, and others the loss of Life and whole Estate, whether in Lands or Chattels; and this last, our Law calls a *Forfeiture*, and is only inflicted upon the most Atrocious Criminals; King James did so far Subvert this Reasonable part of our Constitution, that some of his Ministers did impose upon some Thousands of People, Fines that far exceeded their whole Estates, and consequently amounted to a Forfeiture; and all this, upon such Imaginary Crimes as this, Because the Wife went not to Church once in three Weeks, tho' the Husband did

it;



And I am able to instance above 400 thus Fin'd, as either Forfeited, for the like *Minute Crimes*, within the Bounds of one single County.

It's an uncontroverted Principle of our Law, That no man can be condemn'd to die, but upon his being found guilty of the Crime by a Jury of Fifteen Men. Notwithstanding of this great Security of our Lives and Fortunes, King *James* was pleased to grant Commissions to Military Officers, empowering them to put to Death without either Jury, Tryal, or Record; and which Commissions were as boldly put in Execution.

Nothing seems more directly founded on the Law of Nature, than that a Man should not be depriv'd of his Liberty, without showing him a Cause for it; yet how many hundreds have been in a manner buried alive in a sort of Dungeons, for several years, without being told to this very day, what was their Crime.

The Burroughs of *Scotland* were always reputed as one of the Estates of the Kingdom, and by their Charters ratified in Parliament, were Vested with a Power to Elect their own Magistrats; yet King *James* did so far trample upon the Liberties of this Third Estate, that without the pretence of either *Surrender, Confession, or Sentence*, he was pleased to Impose upon them for Magistrates, those that were Strangers, and not Free of their Corporations, and a great many of them *Roman Catholics*.

It were in vain to endeavour to confine to this Paper, all the Instances of King *James* his Subverting this Hinge of our Constitution, viz. The obligation to Govern according to Law: I shall conclude with one Paramount Instance, that entails an Eternal Blot upon



upon the Government of the Late King, and upon the late Justice of our Nation; I mean, the Indictment of High Treason against that *Noble Person*, the late Earl of *Argyle*; of whom, to say too much were impossible; and to say too little, were a Crime. It's true, this Affair was Transacted in the Late King *Charles* his Reign, but it justly merits the glory of being accounted one of King *James's* Managements, since he was his Brother's Commissioner, and upon the place at the time, and the source and promoter of that great Person's Ruine. One would think that it needs must have been some horrid Crime that could obliterate all the eminent Services done by this Nobleman to the Crown, even in its lowest figure, that could provoke Justice to convict him of no less than High Treason, to taint his Blood, and declare his Family *Ignoble*; to forfeit his Estate; to extinguish his Honour, the first of its Rank in the Kingdom; and to sentence Himself to die the death of a Traytor, and all this to happen within a few weeks after that he had been seen to move in the highest Orb of favour, and to entertain the then Duke of *York* with the greatest magnificence at his House in *Stirling*. King *Charles* had reason to call this Crime of the Earl of *Argyle's*, a Metaphysick kind of Treason, and a thing he could never make sense of. But that those who are strangers to our Kingdom, may have a short hint of this unintelligible Affair, I beg leave to inform them, That in the Parliament, where the Late King *James* represented his Brother as High Commissioner, there was an *Oath* or *Test* enacted to be taken by all Persons in publick Offices; in which *Test*, there were some things

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contained so hard of digestion, and of *apparent contradiction in it self*, that a great many Persons of all Ranks, scrupled it upon that score. Yea, the universal dislike of it at first was such; as oblig'd the Bishop of *Edinburgh*, and afterward the *Privy Council it self*, to emit a publick explanation of this *Test*, and therein to piece up, in the best manner possible, the seeming Contradictions contained in it. Notwithstanding of all this, and that most of the Clergy, especially of the North, did take this Test and Oath, with, and under *express Explanations*, and were by Authority allowed them; yet the Earl of *Argyle* had his Life, Honour, and Fortune sacrific'd, for venturing on that which the meanest Countrey Minister was permitted. But that the Ages to come, may know the *very words*, wherein this Chymereal Treason lay, and thereby be the better capacitate to have a true value of the Learning and Integrity of those Gentlemen that had the honour of finding it out. I shall repeat the very Expressions which were declared by the plurality of his Judges to be in themselves High-Treason: which are these, according as they are set down in the Indictment, upon which he was found guilty. *I have considered the Test, and am very desirous to give obedience as far as I can. I am confident the Parliament never intended to impose contradictory Oaths, and therefore I think no man can explain it but for himself, and reconcile it as it is genuine, and agrees in its own sense; and I take it in so far as it is consistent with the Protestant Religion, and it self: And I do declare, I mean not to bind up my self in my Station, and in a lawful way,*  
to

*to wish, and endeavour any alteration I think to the advantage of Church or State, and not repugnant to the Protestant Religion, and my Loyalty; And this I understand as a part of my Oath.*

Behold the transcendent Crime that brought one of the Greatest and Ancientest Families of our Nation to ruine, and at last, one of the greatest and best of its Subjects to the Block; and therein an unexampled Instance of an Arbitrary Power, that scorn'd to be bounded by the mean and weak Bonds of Justice and Law, but could boldly venture upon all that uses to be sacred among men, when it was found needful to sacrifice to Revenge any that might have the honour to oppose the Design of introducing Popery, and Arbitrary Power. It's to be regretted, that Death has exempted from a Temporal Bar the rest of this Nobleman's Judges, that gave their vote against him, and has left us behind but one of them; *B. of F.* a Person Justice must stoop to, before she can meet him; and whom Heaven has denied any Qualities that might render him a suitable Victim for the atonement of so Illustrious Blood.

Here it is but reasonable, that I should mention with honour a great many noble and generous Persons, who merit to have their Names affix on the Temple of Fame to After-ages, for the glory of daring to make what opposition they could to the enslaving their Countrey: Some of whom, rather *Places of Preferment*, nor the *honour of sitting on the Council-board*, and on the Bench, could tempt to

betray the Liberties of the Nation; and of whom others were proof against the Frowns of Princes, and could not be frighted by the loss of Employments and Disgraces, from their Duty. But this fertile Subject I leave to a better Pen.

Thus, I hope, I have made it appear, That the two great Hinges of the Government of Scotland are, *that the Laws the People are governed by, be made by King and Parliament*: And that the Government be administered according to these Laws. I have also prov'd, That the Late King James has subverted both these two Hinges of the Government; and thence, that our Constitution was dissolv'd, and our Obligations of Obedience, and Oaths of Allegiance to that King, are extinguish'd, and at an end. From all which it must follow by a necessary Consequence, without necessity of proving it, That the Estates of the Kingdom did justly fill up the Throne, vacant by the dissolution of the Government; and thereby the above-mentioned Narrative of King James's Proclamation has now no more force than a Bull of Excommunication in Countreys where the Thunders of the Vatican have lost their force.

There is but one Objection that can be made, with any shadow of reason against King James's obligation to govern by Law, and it is so trivial, that it scarce requires an Answer; and it's this, That he never took the Coronation-Oath, and therefore cannot be charged with unHINGING that part of our Constitution, *To govern according to Law*. To this,  
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all I shall say, is *first*, He was obliged to take it, as being an Oath enacted to be taken by all the Kings of *Scotland*; and it were most unreasonable, that his Fault in not taking it, should put him in a better Condition, or us in a worse, than if he had taken it. *Secondly*, Whoever accepts the Regal Dignity in right of Succession, is thereby understood to assume the Government with, and under the same Conditions and Limitations that his Predecessors were under: So that King *James*, by accepting the Crown of *Scotland* in Right of Succession to his Brother, That very Right that entail'd upon him the Crown which was once his Brother's, does at the same time entail also upon him the necessary and Essential Conditions of the Government, as they were stated in his Brother's time.

The rest of the Proclamation runs thus. By all which they have incurred the guilt and pains of High-Treason (meaning the Parliament, as mentioned in the former part) and Rebellion against Us, and Our Authority, Therefore We hereby declare the saids wicked Persons assembled, as aforesaid, consenting to such Proceedings, Rebels and Traytors: Willing and requiring you, and all Our Good Subjects to take notice hereof, that you give them no obedience, concurrence, or assistance: But that to the utmost of your power you rise in Arms against, assault, attack and destroy them, their Assistants and Abettors, and to take  
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and apprehend them, and bring them to con-  
 dign punishment, according to the Laws  
 and Acts of Parliament of that Kingdom;  
 their Estates and Goods to seize, and im-  
 ploy for Our use, or your own subsistence,  
 in Our Service. And for whatever shall  
 happen in prosecution of this Our Will  
 and Pleasure, This shall be to you, and  
 all others concerned, a sufficient Warrant  
 and Command: And for all blood-shed,  
 slaughter, mutilation, fire-raising, or other  
 damage done to these Rebels, their Accom-  
 plices, Assistants, Abettors, their Lands, and In-  
 heritances, Goods, or Possessions, a suffi-  
 cient Indemnity, Pardon, Warrant and  
 Approbation, for now and ever: The which  
 all our Judges are to explain in the most  
 favourable and extensile sense the words can  
 bear, in favours of Our saids Subjects, obey-  
 ing Our said Order as aforesaid. Decla-  
 ring, We will make good to Our Subjects  
 whatever We promis'd them in Our De-  
 clarations in favours of the Protestant Re-  
 ligion, and Liberty of Conscience, to all  
 who will live peaceably, and Rights and  
 Properties of our People. Given at Dub-  
 lin, the 10th of May 1649. I would not have been at the pains  
 to transcribe these Expressions, if I did not think  
 that the very reading of these unexampled Invi-  
 tations to Slaughter, Fire-raising, &c. should ex-  
 cite a just horror in the minds of all men, of  
 what we are to expect, if ever Heaven, for  
 the punishment of our Ingratitude, should suffer



us to fall under the Power of the Prince that uses them. And I have chose rather to pass them over with a bare repeating of them, than by such an Answer as perhaps they require, add Reflections upon a Prince, who has his Fortune too much sunk already, and whom a great many Considerations obliges me always to treat with all possible Respect.

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